



State of Tennessee Department of Children's Services

Administrative Policies and Procedures: 14.10

**Subject: Child Protective Services Commissioner's Case
File Review of Indicated Neglect or Abuse
Investigations**

Supersedes: DCS 14.10, 04/01/01

**Local Policy: No
Local Procedures: No
Training Required: No**

Approved by:

Effective date: 04/04/00

Revised date: 01/01/02

Application

To all Child Protective Services Case Managers, Team Leaders, Team Coordinators and the DCS Commissioner (or designee).

Authority: 42 USC 5101; TCA §37-1-102 (b) (1) and (12), TCA §37-1-602(a)(2), TCA 37-5-106

Policy

DCS staff shall provide an appeal by way of a Case File Review to **any** individual who has been classified as an indicated perpetrator of child abuse or neglect and who disagrees with the indicated classification. The appeals process is designed to:

1. Provide the indicated perpetrator an opportunity to have an indicated classification reviewed;
2. Serve as a quality assurance mechanism to assure compliance of staff classifications with CPS standards; and
3. Enhance the CPS Program by providing a review of the findings of indicated classifications.

This policy applies only to instances where the indicated classification does not affect volunteer or employment status and is, therefore, not subject to review and release under State Rule 0250-7-9 - **"Due Process Procedures for the Release of Child Abuse Records"** which is implemented by DCS Policy 14.11 *Child Protective Services Due Process*.

Exception: This file review does not apply to the classification "allegation indicated, sexually reactive child".

Procedures

A. Appeal process requirement

A review of the case file must be granted to indicated perpetrators in an indicated classification of child abuse or neglect when requested by the indicated perpetrator.

B. Informing the indicated perpetrator

1. Notice of right to review

- a) The Case Manager will send *Letter A* and Attachment for *Letter A* as notification via regular US Mail, or hand-delivered with signed acknowledgment of receipt, to the indicated perpetrator at the last known address within **15 calendar days** after the case is classified as indicated. The Case Manager will keep copies of the above notification in the case file.
- b) If *Letter A* and Attachment for *Letter A* is hand-delivered and the indicated perpetrator refuses to sign acknowledgment of receipt, the Case Manager will sign on the witness line and note that the recipient refused to sign. It is the responsibility of the individual requesting the review to mail the letter to the address indicated on the attachment.
- c) **If the indicated perpetrator is a minor and in the custody of their parent/guardian**, the letter will be addressed to the minor, with attention to the parent/guardian. Either the parent/guardian or the minor/indicated perpetrator can request the Case File Review.

If the indicated perpetrator is a minor who is in State custody, the letter and attachment will be addressed to the minor, with a copy of the letter and the attachment sent to: **Child Protective Services Division, State of Tennessee, Department of Children's Services, Cordell Hull Building, 436 Sixth Avenue North, Nashville, TN 37243-1290.**

A copy of the letter and attachment must also be sent to the **Regional Supervising Attorney.**

- d) The Case Manager will attach to the notification (*Letter A*) the Request for Commissioner's Case File Review (Attachment for *Letter A*). The Case Manager must

complete the top portion of the form which indicates the agency address information, names of the child(ren), the date(s) of the report, the allegation(s), the name of the indicated perpetrator, and the classification decision(s).

- e) The notice of the right to review must contain the following information:
 - 1. That the individual has been identified as a perpetrator in an indicated case on any allegation of harm to a child.
 - 2. That the individual may request a Case File Review by the Commissioner (or designee) within **15 calendar days** of the date of the notice on *Letter A*;
 - 3. That failure to submit a request within the **15 day time frame**, absent a showing of good cause, will result in the finding becoming final and will waive any right to review; and
 - 4. That the request for Case File Review should be submitted to the attention of: **Child Protective Services Division, State of Tennessee, Department of Children's Services or, Cordell Hull Building, 436 Sixth Avenue North, Nashville, TN 37243-1290.**
- f) In order to ensure that all indicated perpetrators have adequate time to request a Case File Review, the Case Manager must ensure that the date on the notification letter is the **actual date that the letter is placed in the US mail.**
- g) If a criminal, civil or administrative action has occurred by the date that the indicated classification is made, the Team Leader will assure that Notice of Court/Administrative Proceeding Request to Stay Commissioner's Case File Review (*Letter E*) is submitted to: **Child Protective Services Division, State of Tennessee, Department of Children's Services , Cordell Hull Building, Nashville, TN 37243-1290.** Follow procedures described in Part D of this policy.

2. Notice about review obligations

- a) The Commissioner (or designee) must date stamp all requests for Case File Reviews on the date received in Central Office. The Commissioner (or designee) shall respond to a timely request for a Case File Review by sending to the individual, within **10 calendar days** of receiving the request for review, a written notice of the

individual's obligations in the file review process (*Letter B*).

- b) The notice of review obligations shall contain the following information:
 - 1. That the individual has the right to submit additional written information to the Commissioner (or designee) within **30 calendar days** of the date on *Letter B*;
 - 2. That if he or she does not submit additional information within **30 calendar days**, the review will proceed with the information provided by the Case Manager and the right to submit additional information will be forever waived; and
 - 3. An exception to the time limit may be granted if evidence of good cause can be shown by the indicated perpetrator. The Commissioner (or designee) is responsible for determining a good cause exception. Good cause is defined as failure to receive the notice, severe illness, or some other disabling condition that substantially prevents the individual from submitting the information within the time limit.
- c) The Team Leader, upon receiving a copy of the notice in *Letter B* shall:
 - 1. Submit via Express Mail, within **30 calendar days**, the entire original investigative file, which shall include all paper documentation, as well as all electronic documentation (i.e., audiotapes, videotapes, photographs, etc.).
 - 2. When the individual is a **minor** who is in state custody, the Team Leader must contact the Regional Supervising Attorney to secure resources for assisting the minor with submitting additional written information to the Commissioner (or designee) within **30 calendar days** of the date on *Letter B*.

C. Review of case file

1. Obligation to review

If the individual requests the review within the proper time frame, the Commissioner or his designee must conduct a review of the case file.

2. Deadline for determining classification

The Commissioner (or designee) must, within **100 calendar**

days of the receipt of the request for review, make a final determination as to whether the report is properly classified as "indicated." The **100 calendar day** deadline will be delayed (day for day) by any stay of the Case File Review process issued under Part D of this policy.

3. Review Procedure

- a) The determination decision is made by:
 1. Reviewing the investigative case file record;
 2. Conducting a telephone interview with the investigating Case Manager or Team Leader for the purposes of clarification of the case record, if needed; and
 3. Reviewing all additional information submitted by the indicated perpetrator.

3. Notice of result of review

Once the Case File Review has been completed, the Commissioner (or designee) must send notification (via *Letter C*) to the indicated perpetrator of the final result of the review and that no further appeal or review of the investigation is provided.

5. Return of case file

At the conclusion of the Case File Review, the Commissioner (or designee) shall return the case file by Express Mail to the submitting Team Leader along with notification (via *Letter D*) that the classification has been upheld or with instructions to change the classification. The Commissioner (or designee) must evaluate and document in *Letter D* the information that resulted in the change in the classification, sending this information to the Team Leader, with a copy to the Team Coordinator and Regional Administrator. The *Letter D* will be filed in the Case File.

6. Change of classification

If the review determined a need to modify the classification, the Team Coordinator in the investigating county shall ensure that the change in classification is made in all related documents and computer entries. TN Kids would require an entry in case recordings. The Team Coordinator must ensure that a revised Classification and Summary Report reflecting the change of classification is submitted to the appropriate Juvenile Court and/or District Attorney and a copy placed in the Case File.

7. Follow-up with Case Manager

The Team Coordinator must review the case file with the Team Leader and Case Manager assigned to the case to note

any improvements in practice recommended by the Case File Review.

D. Conditions for stay or termination of review process

1. Stay of review process

- a) The Commissioner (or designee) must immediately stay the Case File Review of an indicated child abuse or neglect investigation if:
 - 1. The indicated perpetrator has been arrested and charged or indicted on criminal charges stemming from the same allegations as the child abuse or neglect investigation; or
 - 2. The indicated perpetrator has been named or the alleged abuse or neglect is an issue in a civil, judicial or other administrative proceeding stemming from the same allegations as the child abuse or neglect investigation.
- b) The Team Leader must immediately, upon learning of any of the above proceedings, notify (via *Letter E*) the Commissioner (or designee) of any judicial or administrative proceeding underway which stems from the same allegations as the child abuse or neglect investigation. If charges were expected but not initiated prior to the closure of a case, then the Team Leader must make contact with persons to obtain an update of any pending charges, prior to sending the CPS case file for review.
- c) The Commissioner (or designee) upon staying a Case File Review must within **10 calendar days** send a notice of the Stay (via *Letter F*) to the indicated perpetrator. The notification must contain the procedures for reinstatement of the review process and for the termination of the review process.
- d) The CPS case file should not be sent for review if the case is stayed.

2. Termination of review process

- a) The Commissioner (or designee) shall terminate the Case File Review for any indicated perpetrator
 - 1. Who is found guilty or enters a guilty plea to any offense stemming from the same circumstances as the allegations of child abuse or neglect; or

2. Who, through any court or administrative proceeding, receives a judicial or administrative adjudication that he or she has committed, or has knowingly allowed to be committed, any act that would constitute neglect as defined in TCA 37-5-103(8), or physical abuse, severe child abuse as defined in TCA §37-1-102(b)(1) and (12) or any act that constitutes child sexual abuse as defined in TCA §37-1-602(a)(2) stemming from the same allegations.

3. Loss of right to review

The Commissioner (or designee) must consider any conviction or adjudication listed above to be conclusive evidence that the individual is the perpetrator in the DCS "indicated" allegation(s) and the indicated perpetrator has no further right to the Case File Review provided by this policy. The Team Coordinator must submit the court document in this situation.

4. Reinstatement of right to review

If court proceedings stemming from the same allegations do not result in a conviction or adjudication on child abuse or neglect stemming from the same allegations, the indicated perpetrator may reinstate the right to review, provided that the Department receives a written request for reinstatement of review along with the court order or other court documentation from the individual within **30 calendar days** of the final disposition by the court or administrative proceeding.

E. Non-release of records

The findings of this review must not be released to any person other than the indicated perpetrator and appropriate DCS staff, except as provided for in the DCS Policy 14.13, *Confidentiality of Child Protective Services Cases and Information*.

Forms/Templates

CS-0554 Request For Commissioner's Case File Review

Collateral Documents

Letter A - Local Office Notification to Indicated Perpetrator

Letter B - Receipt of Request for a Commissioner's Case File Review

Letter C - Results of review to appellant

Letter D - Results of review to region

Letter E - Request to Stay Commissioner's Case File Review

Letter F - Notice to appellant of a Stayed Commissioner's Case File Review

Glossary

<i>Term</i>	<i>Definition</i>
<i>Case File Review</i>	A paper review of an indicated perpetrator's case file by DCS Commissioner (or designee) without the legal representation of either the Department or the perpetrator.
<i>Good Cause</i>	A substantial reason that affords a legally sufficient ground or reason (i.e., failure to receive notice, severe illness or other disabling condition that substantially prevents the action required).
<i>Indicated classification</i>	An investigation that has been reviewed by the Team Leader (or designee) and approved as meeting the classification standard for substantial and material evidence.
<i>Indicated perpetrator</i>	An individual found, through a Child Protective Services investigation, to have committed child abuse or neglect.
<i>Substantial and Material Evidence</i>	Evidence that is adequate to support a conclusion and that is relevant and convincing to a reasonable person.
<i>Express Mail</i>	Delivery service via any mail carrier capable of tracking lost packages.